



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 1, 2007

The Honorable James G. Phinizy, Chairman
Environment and Agriculture Committee
Room 305, Legislative Office Building
Concord, NH 03301

RE: SB 71 as amended, relative to setback requirements for new landfills near designated rivers

Dear Chairman Phinizy:

Thank you for the opportunity to comment on SB 71 as amended relative to setback requirements for new landfills near designated rivers. The Department of Environmental Services (DES) supports this legislation.

SB 71 as amended seeks to provide river segments designated as rural the same protection level in regard to new landfills as natural segments. New solid waste facilities are prohibited within the river corridor of natural segments, and SB 71 as amended would prohibit new landfills from the river corridor of rural segments. It also allows for site specific considerations for natural and rural segments as the protection can be expanded beyond the corridor dependent upon floodplain characteristics.

DES supports this protection level for rural segments because it meets the management objectives of RSA 483, while appropriately balancing the public benefit derived by landfills with the public benefit and protection levels stipulated in RSA 483 for New Hampshire's Designated Rivers. The intent of the Rivers Management and Protection Program, as stated in RSA 483:2, is to "complement existing state and federal laws...in a manner that will enhance or not diminish the enjoyment of the outstanding river characteristics..." and that the "scenic beauty and recreational potential of such rivers shall be restored and maintained." The management objectives to implement this intent are outlined in RSA 483:7-a, with there being a significant distinction in objectives between natural and rural classifications and those for rural-community and community classifications. Natural and rural classifications have management objectives to maintain and enhance the natural, scenic, and recreational values of the river, while rural-community and community have objectives relevant to community values, and mixed land uses including commercial and industrial uses. It is this similarity in management objectives for natural and rural segments, combined with the stated intent of RSA 483, which provides the justification for expanding the prohibition of new landfills to include rural river segments.

DES is aware that from a scientific and technical assessment standpoint, areas within the corridor of natural and rural segments sites may be suitable for landfills. DES support of SB 71 as amended is not an attempt to negate the position that sound science should be considered when establishing setbacks, but rather recognition that New Hampshire's designated rivers deserve special protection due to their outstanding characteristics and the public benefit derived

by those characteristics. If in the future a new landfill permit application is denied solely due to its prohibition under the Rivers Management and Protection Program, RSA 483:12-a includes a provision which would allow for the reconsideration of the project by evaluating the consistency of the activity with the character of the designated river, or determining whether the public benefit of the proposed activity outweighs the public benefit of the protection measure.

In conclusion, SB71 as amended provides an appropriate balance between the public benefit derived from new landfills as well as the management objectives, public benefit, and additional protection stipulated in RSA 483 for New Hampshire's designated rivers.

Thank you for the opportunity to comment on this important legislation. If you have any questions or need additional information, please contact Steve Couture, Rivers Coordinator, at 271-8801 or me at 271-2958.

Sincerely,


for Thomas S. Burack
Commissioner

cc: Senator Hassan
Senator Cilley
Senator Fuller Clark
Senator Odell
Representative Tupper
Representative Powers
Representative Drisko